

1997—Pub. L. 105-85 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to special pay for qualified enlisted members extending duty at designated locations overseas.

1985—Subsec. (a). Pub. L. 99-145 substituted “\$80” for “\$50” in provision following par. (4).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 625(b) of Pub. L. 105-85 provided that: “Section 314 of title 37, United States Code, as amended by subsection (a), shall apply with respect to an agreement to extend a tour of duty as provided in such section executed on or after October 1, 1997.”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 641(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

EFFECTIVE DATE

Section 5(c)(1) of Pub. L. 96-579 provided: “Section 314 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month following the month in which this section is enacted [Dec. 1980] and shall apply to periods of extended duty overseas beginning before, on, or after such date, but no payment may be made under such section for any month before the first day of the first month following the month in which this section is enacted.”

§ 315. Special pay: engineering and scientific career continuation pay

(a) In this section, the term “engineering or scientific duty” means service performed by an officer—

- (1) that requires an engineering or science degree; and
- (2) that requires a skill designated (under regulations prescribed by the Secretary of Defense for the armed forces, by the Secretary of Commerce for the National Oceanic and Atmospheric Administration, or by the Secretary of Health and Human Services for the Public Health Service) as critical and as a skill in which there is a critical shortage of officers in the uniformed service concerned.

(b) Under regulations prescribed by the Secretary concerned, an officer of a¹ uniformed service who—

- (1) is entitled to basic pay;
- (2) is below the pay grade of O-7;
- (3) holds a degree in engineering or science from an accredited college or university;
- (4) has been certified by the Secretary concerned as having the technical qualifications for detail to engineering or scientific duty;
- (5) has completed at least three but less than nineteen years of engineering or scientific duty as an officer; and
- (6) executes a written agreement to remain on active duty for detail to engineering or scientific duty for at least one year, but not more than four years;

may, upon acceptance of the written agreement by the Secretary concerned, be paid, in addition to all other compensation to which the officer is entitled, an amount not to exceed \$3,000 multiplied by the number of years, or monthly frac-

tion thereof, of obligated service to which the officer agrees under the agreement. The total amount payable may be paid in a lump sum or in equal periodic installments, as determined by the Secretary concerned.

(c)(1) An officer who does not serve on active duty for the entire period for which he has been paid under subsection (b) shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made. Nothing in this subsection shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion by a regular officer of the total period of obligated service specified in an agreement under subsection (b) does not obligate the President to accept a resignation submitted by that officer.

(2) Subject to paragraph (3), and obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after September 30, 1981.

(Added Pub. L. 97-60, title I, §120(a), Oct. 14, 1981, 95 Stat. 998; amended Pub. L. 99-145, title VI, §637(a), Nov. 8, 1985, 99 Stat. 648; Pub. L. 100-26, §8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in two places in par. (1) and struck out “of this subsection” after “paragraph (1)” in pars. (2) to (4) and after “paragraph (3)” in par. (2).

1987—Subsec. (a). Pub. L. 100-26 inserted “the term” after “In this section.”.

1985—Subsec. (a). Pub. L. 99-145, §637(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In this section, the term ‘engineering or scientific duty’ means service performed by an officer that requires an engineering or science degree and that requires a skill designated under regulations prescribed by the Secretary of Defense as critical and as a skill in which there is a critical shortage of officers in the armed force concerned.”

Subsec. (b). Pub. L. 99-145, §637(a)(2), in provision preceding par. (1), substituted “prescribed by the Secretary concerned” for “prescribed by the Secretary of Defense” and “officer of a uniformed service” for “officer of an armed force”.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 637(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

¹ So in original. Probably should be “an”.

§ 316. Special pay and bonus for members with foreign language proficiency

(a) **AVAILABILITY OF SPECIAL PAY.**—Subject to subsection (c), the Secretary concerned may pay monthly special pay under this section to a member of the uniformed services who is entitled to basic pay under section 204 of this title and who—

(1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;

(2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;

(3) is assigned to duties requiring a proficiency in such a foreign language; or

(4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

(b) **AVAILABILITY OF BONUS.**—Subject to subsection (c), the Secretary concerned may pay an annual bonus under this section to a member of a reserve component who satisfies the eligibility requirements specified in paragraph (1), (2), (3), or (4) of subsection (a).

(c) **CERTIFICATION OF PROFICIENCY.**—To be eligible to receive special pay or a bonus under this section, a member described in subsection (a) or (b) must be certified by the Secretary concerned as being proficient in the foreign language for which the special pay or bonus is offered. The certification of the member shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

(d) **SPECIAL PAY AND BONUS AMOUNTS.**—(1) The monthly rate for special pay paid under subsection (a) may not exceed \$1,000.

(2) The maximum amount of the bonus paid to a member under subsection (b) may not exceed \$6,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period.

(e) **RELATIONSHIP TO OTHER PAY OR ALLOWANCE.**—(1) Except as provided in paragraph (2), special pay or a bonus paid under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

(2) If a member of a reserve component serving on active duty receives special pay under subsection (a) for any month occurring during a certification period in which the member received, or is receiving, a bonus under subsection (b), the amount of the special pay paid to the member for the month shall be reduced by an amount equal to $\frac{1}{2}$ of the bonus amount.

(f) **CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.**—(1) Notwithstanding subsection (c), the Secretary concerned may waive the certification requirement under such subsection and pay monthly special pay or a bonus under this section to a member who—

(A) is assigned to duty in connection with a contingency operation;

(B) is unable to schedule or complete the certification required by subsection (c) because of that assignment; and

(C) except for the lack of such certification, satisfies the eligibility requirements for receipt of special pay under subsection (a) or a bonus under subsection (b), whichever applies to the member.

(2) For purposes of providing an annual bonus to a member under the authority of this subsection, the Secretary concerned may treat the date on which the member was assigned to duty in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification will expire during such a duty assignment, the Secretary shall commence the next one-year certification period on the date on which the prior certification period expires.

(3) A member who is paid special pay or a bonus under the authority of this subsection shall complete the certification required by subsection (c) for the foreign language for which the special pay or bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (h).

(4) If a member fails to obtain the required certification under subsection (c) before the end of the period provided under paragraph (3), the Secretary concerned may require the member to repay all or a portion of the bonus in the manner provided in subsection (g).

(g) **REPAYMENT OF BONUS.**—(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

(2) An obligation to repay the United States imposed under paragraph (1) or subsection (f)(4) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.

(h) **REGULATIONS.**—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and